

STATE OF MINNESOTA  
IN SUPREME COURT

SUPREME COURT  
FILED

APR 14 1978

JOHN McCARTHY  
CLERK

AMENDMENTS TO CODE OF PROFESSIONAL RESPONSIBILITY  
REGARDING ATTORNEY ADVERTISING

WHEREAS, the Minnesota State Bar Association has petitioned this Court to amend provisions of the Code of Professional Responsibility dealing with lawyer advertising and a hearing was had with respect to said petition on February 6, 1978; and

WHEREAS, there are presently pending before the United States Supreme Court the cases of Ohralik v. Ohio State Bar Association and In re Smith, the resolution of which, in addition to Bates v. State Bar of Arizona, will have a direct bearing on the subject of attorney advertising; and

WHEREAS, the Court believes that the subject of attorney advertising should be analyzed in greater depth before the Code of Professional Responsibility is permanently revised; and

WHEREAS, the Court believes that a rule written in general terms forbidding false and misleading advertising is adequate to meet the requirements of the situation until such time as a more definitive resolution of the subject of attorney advertising can be achieved; Now, Therefore,

IT IS HEREBY ORDERED that, effective forthwith, DR 2-101 be amended to read in its entirety as follows:

"DR 2-101. PUBLICITY

"(A) A lawyer shall not, on behalf of himself, his partner, associate or any other lawyer affiliated with him or his firm, use or participate in the use of any form of public communication containing a false, fraudulent, misleading or deceptive statement or claim.

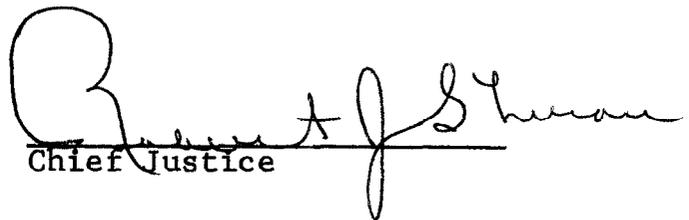
"(B) A false, fraudulent, misleading or deceptive statement or claim includes a statement or claim which:

- "(1) Contains a misrepresentation of fact;
- "(2) Is likely to mislead or deceive because in context it makes only a partial disclosure of relevant facts;
- "(3) Is intended or is likely to create false or unjustified expectations of favorable results;
- "(4) Conveys the impression that the lawyer is in a position to influence improperly any court, tribunal, or other public body or official;
- "(5) Is intended or likely to result in a legal action or legal position being taken or asserted merely to harass or maliciously injure another; or
- "(6) Contains other representations or implications that in reasonable probability will cause an ordinary, prudent person to misunderstand or be deceived."

IT IS FURTHER ORDERED that all interested parties be requested to observe and monitor the application of the above amended DR 2-101 until April 16, 1979, at which time the Court will schedule a public hearing at which all interested parties will have an opportunity to be heard regarding a permanent rule dealing with the subject of lawyer advertising.

Dated: April 14, 1978

BY THE COURT

  
Chief Justice